

State of Maine
Board of Licensure in Medicine
Meeting of December 14, 2010
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**State of Maine
Board of Licensure in Medicine
137 State House Station, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of December 14, 2010**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Cheryl D. Clukey
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
David D. Jones, M.D.
David Nyberg, Ph.D.

Dr. Hatfield was excused.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Dan Sprague, Assistant Executive Director
Jean M. Greenwood, Administrative Assistant
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator
ATTORNEY GENERAL'S OFFICE
Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential 1 M.R.S. §405, 10 M.R.S. §8003-B, 22 M.R.S. § 1711-C, and 24 M.R.S. § 2510. The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by POWERPoint projection.

PUBLIC SESSIONS

9:10 a.m. – 9:14 a.m.
9:26 a.m. – 9:28 a.m.
10:22 a.m. – 10:24 a.m.
10:42 a.m. – 10:43 a.m.
10:54 a.m. – 10:54 a.m.
12:10 p.m. – 12:11 p.m.
12:55 p.m. – 12:56 p.m.
1:45 p.m. – 2:08 p.m.
2:25 p.m. – 4:04 p.m.

EXECUTIVE SESSION

9:28 a.m. – 10:22 a.m.
10:24 a.m. – 10:42 a.m.
10:54 a.m. – 12:10 p.m.
12:56 p.m. – 1:45 p.m.

RECESS

9:14 a.m. – 9:26 a.m.
10:43 a.m. – 10:54 a.m.
12:11 p.m. – 12:55 p.m.
2:08 p.m. - 2:25 p.m.

PURPOSE

Call to order.
Public Session
Public Session
Public Session
Public Session
Public Session
Public Session
Motion on matters discussed in Executive Session
Public Session/Adjournment

Progress Reports and New Complaints
Progress Reports and New Complaints
New Complaints
New Complaints and Assessment & Direction

Noon Recess

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:10 a.m.

A. Amendments to Agenda (None)

B. Scheduled Agenda Items (None)

II. PROGRESS REPORTS

1. CR 10-034

Dr. Jones moved to dismiss CR 10-034. Dr. Dumont seconded the motion, which passed unanimously.

The Board initiated a complaint against this provider based on the care and oversight of a patient on large doses of narcotics. The complaint alleges unprofessional and incompetent behavior.

Reviewing the provider's response concerning changes made in the practitioner's practice is reassuring. The provider's group had a practice review and consultation through Maine Medical Association's Consultation Program. The group has accepted and initiated the recommendations concerning narcotics provided by this consultation. The practice also has a new controlled substance contract that outlines the policy of the group. The Board urges this provider and practice to continue to care for those patients in need of pain management, but to be more vigilant in oversight and responsible in adhering to their new office policies.

2. CR 10-145

Dr. Jones moved to order an Informal Conference in the matter of CR 10-145. Dr. Gleaton seconded the motion, which passed unanimously.

3. CR 10-146

Dr. Nyberg moved to dismiss CR 10-146. Dr. Dumont seconded the motion, which passed unanimously.

The Board received information that the physician resigned while under investigation. The physician did not report this on her renewal application. The Board has determined that the physician was not under investigation when she resigned and her renewal application was accurate.

4. CR 10-200

Dr. Dreher moved to order a 3286 exam in the matter of CR 10-200. Dr. Dumont seconded the motion, which passed unanimously.

5. CR 10-243 DAVID A. LOXTERKAMP, M.D.

Dr. Oldham moved to dismiss the complaint against David A. Loxterkamp, M.D. (CR 10-243) with a letter of guidance. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Dreher recused.

The complainant feels that his acute medical condition was not managed appropriately due to his physician's reluctance to order appropriate testing and make needed referrals. A review of the records shows that the patient's condition appears to have been treated appropriately and that studies and referrals were made when indicated.

The medical records are somewhat poor in that subjective findings are only recorded by a medical assistant, with the physician simply signing the note to verify the medical assistant's subjective findings. This makes it unclear how much of a history the physician obtained himself, and whether he obtained any additional information in this case.

A letter of guidance will point out the need for the physician to contribute to the history obtained from the patient and note this in the record, given the critical importance of obtaining an accurate history and asking pertinent questions.

6. CR 10-269

Dr. Jones moved to dismiss CR 10-269. Dr. Gleaton seconded the motion, which passed unanimously.

The complaint against this provider was reviewed by the Board at its September 14, 2010 meeting. The complaint stated that the practitioner did not provide the patient's laboratory results in a timely manner, even though the patient called to check on the results a few times. The provider stated that the delay was the fault of the "outside" laboratory. Upon review of the complaint, the patient records, and the provider's response to the complaint, the Board requested a copy of the office policy that describes the tracking method for pending lab results. The provider has responded to the request with a revised office policy concerning lab requisitions, reports, and chart documentation.

The Board agrees with the patient that timely provision of laboratory results or other testing results is an important part of health care, and is the provider's responsibility. The Board recognizes that the provider in this complaint has focused on this issue and revised his office policy. In dismissing this case, the Board encourages the provider to further revise his lab requisition, reports, and documentation policy to clarify that the patient is not expected to call for results, but will be automatically called instead. The policy should also focus more on dating and timing all events with the "pending" notebook, and the same with all calls to the patient concerning results, whether by a provider or medical assistant.

7. CR 10-276

Dr. Jones moved to dismiss CR10-276. Dr. Dumont seconded the motion, which passed unanimously.

The complaint against this physician and practice was reviewed by the Board at its September 14, 2010 meeting. The complaint addressed delay in pursuit of prior authorization for prescriptions by this physician and practice. The complaint also addressed delayed phone call returns and overall mismanagement of refills by this physician and his staff.

The Board agreed that the complaint identified possible problems with the above issues in the physician's office. The physician was asked to report to the Board what practice and procedure changes had been instituted to prevent future problems of a similar kind.

This physician, in his response to the Board, extends apologies to the complainant and thanks her for providing motivation to improve his group's delivery of care. The physician identifies eight (8) interventions that have been initiated and incorporated into the practice policies. The physician's response is appropriate, and future care of patients in this practice will benefit from the changes initiated by the complaint.

8. CR 10-282

Dr. Dreher moved to dismiss CR 10-282. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complained of being unfairly discharged from this physician's practice. A review of the record and phone notes, plus further documentation from the physician and several staff members, support the conclusion that the patient's behavior was unacceptably hostile and threatening. There are also grounds for concern that the patient was not using controlled medications as prescribed.

9. CR 10-290

Ms. Clukey moved to order an Informal Conference in the matter of CR 10-290. Dr. Jones seconded the motion, which passed unanimously.

10. CR 10-341

Dr. Dumont moved to order an Informal Conference in the matter of CR 10-341. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

11. CR 08-256

Dr. Dreher moved to investigate further CR 08-256. Dr. Gleaton seconded the motion, which passed unanimously.

12. CR 10-267 TIMOTHY TOTO, P.A.-C.

The Board received a copy of a letter to AAG Smith from the attorney for Mr. Toto, which authorized AAG Smith to communicate with the Board regarding a possible consent agreement for licensure in lieu of a previously scheduled adjudicatory hearing.

Dr. Gleaton moved to unset the Adjudicatory Hearing ordered in the matter of CR 10-267 Timothy Toto, P.A.-C. Dr. Dreher seconded the motion, which passed unanimously. The Board then discussed the option of entering into a consent agreement for licensure. Following discussion, Dr. Oldham moved to reset the Adjudicatory Hearing in the matter of CR 10-267 Timothy Toto, P.A.-C. Dr. Dumont seconded the motion, which passed unanimously.

13. COMPLAINT STATUS REPORT (FYI)

14. REVIEW DRAFT LETTERS OF GUIDANCE

A. CR 09-228 and CR 09-532 COREY J. WEBB, P.A.-C

Dr. Jones moved to approve the letter of guidance to Corey J. Webb, P.A.-C. Dr. Dumont seconded the motion which passed unanimously.

B. CR 10-078 DANIEL V. OFFRETT, P.A.-C

Dr. Jones moved to approve the letter of guidance to Daniel V. Offrett, PA-C as written. Dr. Gleaton seconded the motion, which passed unanimously.

15. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

16. CR 10-432

Dr. Gleaton moved to dismiss CR 10-432. Dr. Nyberg seconded the motion, which passed unanimously.

A patient alleges her primary care physician of two years duration acted in an unethical manner by misquoting her and intentionally leaving out important information in the medical record. In addition, the patient feels that the physician disregarded her religious beliefs that are intimately tied to her personal health information. The patient is concerned that the record generated while under the care of this physician might jeopardize her future care should the records be forwarded to other health care providers.

Careful review of the records, along with the patient's detailed examples of her experience, reveals several different interpretations of communications between doctor and patient during exams. Even though the patient and the doctor tried to establish trust, the physician-patient

relationship was compromised by a failure to do so. In the future, the doctor needs to be extremely sensitive to the issue of health information privacy that some patients demand. The patient is encouraged to be explicit about her privacy demands with any new provider.

17. CR 10-220

Dr. Oldham moved to dismiss CR 10-220. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels that this physician did not treat his inflammatory bowel disease appropriately, waited too long to get needed consultations, used medications inappropriately, and based his medical decisions on saving money rather than on best medical care. A review of the medical records shows appropriate medical care with proper usage of consultants.

18. CR 10-268

Dr. Dumont moved to dismiss CR 10-268. Dr. Gleaton seconded the motion, which passed unanimously.

The patient, who resides in an institution, complains that the physician did not adequately treat his pain complaints. Review of the medical records shows an extensive work-up of the pain complaints which included an MRI, plain X-rays, and an EMG. The results of this testing did not show pathology which would justify narcotic pain medication. The patient was weaned off narcotic medication and given non-narcotic pain medication. The care of this patient was appropriate.

19. CR 10-254

Dr. Oldham moved to investigate further CR 10-254. Dr. Jones seconded the motion, which passed unanimously.

20. CR 10-283

Dr. Jones moved to order an Informal Conference in the matter of CR 10-283. Dr. Gleaton seconded the motion, which passed unanimously.

21. CR 10-340

Dr. Jones moved to order an Informal Conference in the matter of CR 10-340. Dr. Gleaton seconded the motion, which passed unanimously.

22. CR 10-312

Dr. Gleaton moved to dismiss CR 10-312. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges the physician acted inappropriately during a breast biopsy by being rough, ignoring her allergy to betadine, not having an anesthesiologist present, and then later reporting she had a follow up visit which she denies attending. The physician explains the patient said she was allergic to xylocaine and did not have reaction to betadine, and he identifies in the chart the anesthesiologist who was present. He denies being rough in any way. He asserts that he scheduled a follow-up appointment, but no note of the follow up was in the record.

23. CR 10-313

Dr. Gleaton moved to dismiss CR 10-313. Dr. Dumont seconded the motion, which passed unanimously.

In this case, a mother complains the physician did not treat her daughter's knee injury appropriately. She complains that when she inquired about an MRI scan she was told initially that it was not necessary. Ultimately, an MRI revealed a meniscal tear requiring surgery. She complains the delay caused her daughter to miss her athletic team's entire season. The physician explained his care of the patient's injury and the rationale for conservative treatment, which is an appropriate initial approach to the daughter's condition.

24. CR 10-327

Ms. Clukey moved to dismiss CR 10-327. Dr. Jones seconded the motion, which passed unanimously.

The patient complains of care he received in an emergency department. He also complains that he was not given transportation home after his emergency department care. The patient was brought to the emergency department because of a seizure. The patient has a history of alcoholism and a seizure disorder. The patient was found to have an elevated blood alcohol and a sub-therapeutic Dilantin level. Neck x-rays and a CAT scan of the head did not show evidence of an acute injury. The patient was given IV Dilantin and observed for eight hours in the emergency department. No further seizure activity occurred, and the patient was able to drink coffee and ambulate without assistance. The hospital does not provide transportation. The care of this patient was appropriate

25. CR 10-328

Ms. Clukey moved to investigate further CR 10-328. Dr. Jones seconded the motion, which passed 6-1.

26. CR 10-330

Dr. Jones moved to dismiss CR 10-330. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant alleges poor provider hygiene, poor office cleanliness, excessive waiting times for scheduled appointments and inappropriate or incompetent care with worsening of her condition due to care she received.

The complainant describes 5 visits, specific dates and specific excessive waiting times. Review of the record documents only 4 visits at different dates and with significantly shorter waiting times than noted by the complainant except for the initial walk-in appointment.

The record supports the provider's response that he gave appropriate care to this patient, and that she was significantly improved at the end of her treatment. The patient is quoted as stating she felt herself to be 90% healed when discharged from care.

The provider had a chronic dry cough that troubled the patient, and he apparently used a hand sanitizer in the hallway out of her view. The patient was also concerned that he did not use gloves, although he never touched the patient's wound. The Board would encourage all providers with a cough to wear a facemask. Any examination of a wound, even if indirect, should require the use of gloves.

This provider, for reasons of patient comfort and knowledge, should consider using a hand sanitizer in the exam room, in view of the patient.

27. CR 10-352

Dr. Gleaton moved to dismiss CR 10-352. Dr. Nyberg seconded the motion, which passed unanimously.

The patient, a college student, sustained a trimalleolar fracture with dislocation and felt that his care by the orthopedic surgeon was incompetent and inconsiderate. The patient felt that the surgeon did not cast the fracture appropriately or offer the proper pain control; and more significantly, did not offer enough support for him outside of the office to be able to perform in the college setting. He alleges the doctor did not advocate for him to receive disability accommodations on campus. As a result, the patient missed classes and cafeteria times.

The physician did write a note to the school describing the injury, but did not suggest disability status. There was no evidence in the record that the patient communicated his difficulty in the activities of daily living on campus with the doctor at any time. The patient's postoperative recovery was standard according to the records and he did receive physical therapy for a time. Eventually the physician felt the hardware should be removed, but the patient did not follow up with the recommendation.

28. CR 10-369

Dr. Dumont moved to dismiss CR 10-369. Dr. Gleaton seconded the motion, which passed unanimously.

This case involves a 93-year-old nursing home patient who experienced a questionable change in mental status. The granddaughter who has secondary Power of Attorney (POA) tried to contact the attending physician to have the patient's medications changed, but it was a weekend. Nursing home notes indicate that the doctor was called and faxed but no effort was made to contact the appropriate doctor covering for the weekend. On Monday when the attending physician received the information she contacted the facility's nursing staff who did not feel that anything further needed to occur and apparently did not notify the attending physician that the primary POA had asked to have the granddaughter updated and there is no documentation that the attending physician was aware that she could discuss the case with the granddaughter.

Unfortunately, communicating through a third party led to poor information exchange. The Board suggests that the attending physician makes sure that all information from the nursing facility is shared with her, or that calls from family are passed on to her directly.

29. CR 10-372

Dr. Dreher moved to dismiss CR 10-372. Dr. Gleaton seconded the motion, which passed unanimously.

This complaint concerns the care provided by a primary care physician for a complex and unfortunate patient. The physician changed medication as requested by the patient due to an ineffective response to those in use. Monitoring of the patient's metabolic function did not indicate an adverse change as alleged in the complaint. Records indicate that both the physician and the patient equally had to cancel appointments with the physician, appropriately using a letter to arrange alternatives when phone contact was ineffective. There is no evidence the physician was unavailable to assist the patient for office based care, which required visits to the emergency department for instances possibly requiring more intensive evaluation and treatment.

30. CR 10-373

Dr. Dreher moved to dismiss CR10-373. Dr. Jones seconded the motion, which passed unanimously.

This complaint focuses on the provision of care in an acute setting. The first complaint questioned an appropriate medical clearance and the transfer to a site with a more appropriate focus of care. The second complaint revolved around the patient's request for change to another primary physician which was appropriately managed. The third complaint regarded the patient leaving the hospital after being correctly informed he would have to go through the emergency department if he returned. In all these situations the physician followed appropriate protocols and there is no evidence of malicious or demeaning behavior on the physician's part.

31. CR 10-371

Dr. Dreher moved to dismiss CR10-371. Dr. Dumont seconded the motion, which passed unanimously.

This complaint alleges multiple failures in treatment and communication with the patient and spouse. The physician's response and supporting documentation indicate a thorough and thoughtful approach to care of a complex patient which produced some improvement in spite of complicating factors beyond this physician's control.

32. CR 10-375

Ms. Clukey moved to dismiss CR 10-375. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician violated her medical privacy by releasing medical records that were not subject to a medical release she executed. The physician's response contradicts this allegation and asserts that he provided all medical records authorized by the release. A review of the medical records and medical release corroborates the physician's response.

33. CR 10-376

Ms. Clukey moved to dismiss CR 10-376. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician violated her medical privacy by releasing medical records that were not subject to a medical release she executed. The physician responded by indicating that he left the medical practice in 2007, and has no custody or control over the complainant's medical records.

34. CR 10-377

Ms. Clukey moved to dismiss CR10-377. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant alleges that the physician violated her medical privacy by releasing medical records that were not subject to a medical release she executed. The physician responded by indicating that he did not personally authorize the release of the medical records, and has no control over the release of medical records from the medical practice.

35. CR 10-378

Ms. Clukey moved to dismiss CR 10-378. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician violated her medical privacy by releasing medical records that were not subject to a medical release she executed. The physician responded by indicating that the medical practice did not release any of the complainant's medical records.

36. CR 10-379

Ms. Clukey moved to dismiss CR 10-379. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that the physician violated her medical privacy by releasing medical records that were not subject to a medical release she executed. The physician responded by indicating that the practice appropriately released the complainant's medical records pursuant to the release she executed.

37. CR 10-380

Dr. Gleaton moved to dismiss CR 10-380. Dr. Dumont seconded the motion, which passed unanimously.

A patient complained about the care she received from her dermatologist. She felt her examination was too brief and that the recommended care was not explained fully, nor was it medically appropriate. The record shows that the care was reasonable. The Board would encourage physicians to return telephone calls expeditiously to address patient's concerns. The financial issues that were part of the complaint do not fall within the Board's purview.

38. CR 10-381

Dr. Dumont moved to dismiss CR 10-381. Dr. Gleaton seconded the motion, which passed unanimously.

In this case, the patient complains the physician refused her treatment, accused her of making up a story, and that her rights were violated. The physician responds he was not the principal care provider on the dates in question but was aware of the patient's presence in the emergency department. He states that the care the patient has received there has always been respectful and appropriate.

39. CR 10-386 STEPHEN E. COOK, M.D.

Dr. Dreher moved to dismiss the complaint against Stephen E. Cook, M.D. (CR 10-386) with a letter of guidance. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

In this case, the complainant alleges Dr. Cook prescribed non-controlled medication to a close family member in another state. Dr. Cook acknowledged he had been prescribing to a close relative and has not kept any records of this. Though done with good intentions, such actions are contrary to the AMA Code of Medical Ethics, Current Opinions with Annotations, 2008-2009 Edition.

Even though the Board concluded that his behavior did not rise to a level of misconduct sufficient to warrant disciplinary action, the Board wishes to convey serious concerns about these actions and expects that Dr. Cook will: (1) stop providing such prescriptions and instruct the

relative in question to seek local care; (2) stop providing care, other than emergency care, to any close relative; and (3) document treatment of all patients in a professional and thorough manner.

40. CR 10-397

Dr. Oldham moved to dismiss CR 10-397. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant feels the physician did not treat his anxiety in a timely or appropriate manner. A review of the medical records shows that the treatment given was both timely and appropriate.

41. CR 10-399

Dr. Jones moved to dismiss CR 10-399. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complains that her pulmonologist failed to provide appropriate treatment or referral for her multiple medical complaints.

A review of the record does not support this complaint. This unfortunate patient has had a complex history with multiple providers predating her pulmonologist's involvement in her care. She had excellent longitudinal care from 2007-2010 as evidenced by review of her records from her primary care physician and pulmonologist. The pulmonologist documented his opinions and recommendations well and communicated appropriately with her primary care physician, even calling him twice. Second opinions were obtained by her primary care physician. There was involvement of multiple other specialists in this patient's care, both for the specific pulmonary disease she had as well as for her other complaints over the years of this complaint. She also had the ability to seek care or a second opinion on her own.

Her disease was unusual, and her understanding of opinions, test results, and recommendations offered by the different doctors she saw was imperfect. Her lack of fully understanding her medical problems, not just her pulmonary problems, made satisfaction with her care more difficult for this patient.

It is always difficult to know what was actually said in the exam room between this patient and the doctor but the office notes and care appeared appropriate. The Board always urges physicians to be sensitive to a patient's needs for information and understanding of their medical problems.

42. CR 10-400

Dr. Jones moved to dismiss CR 10-400. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges that she was denied appropriate care for her underlying pulmonary condition, that she was inappropriately told that there was no treatment available for her disease,

and that further referral for consultation was denied. The complainant also intimates that she was not supported in her need not to work over the course of months.

Review of the record does not support the above complaint. The care process was appropriate and timely, her physician spent significant office appointment time with the patient, and the office staff was receptive and responsive to all of her significant needs. She was also provided with appropriate referrals that she needed or requested. She was asked to trial part time work a few times which is appropriate in any medical leave from work situation.

43. CR 10-426

Dr. Dumont moved to dismiss CR 10-426. Dr. Jones seconded the motion, which passed unanimously.

In this case a patient died and retrospectively a friend accuses the physician of not having provided adequate treatment for hypertension and coronary artery disease as well as having prescribed inappropriate medications. A review of the patient's chart indicates he had no symptoms or history of coronary artery disease prior to his death. His blood pressure was addressed but the patient chose not to treat it with medications.

After several other anti-depressants had failed, Wellbutrin was prescribed for depression and to assist with tobacco cessation despite the labile blood pressure. This is acceptable treatment. Imitrex had been prescribed 2 years earlier for migraine headaches but apparently had never been renewed. If the patient had documented coronary artery disease this would have been inappropriate but there was no such documentation. Supposedly the patient was also on the stimulant Adderall for ADHD but it was not prescribed by this practice and in fact the physician did not even know the patient was taking it. The complainant had never been to a doctor's visit with the patient and she did not have access to his medical records. In this case the care was appropriate.

44. CR 10-433

Dr. Oldham moved to dismiss CR 10-433. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels the physician was rude and uncaring, particularly at times that she needed refills of prescriptions and also in dismissing her from his practice. The physician responded that the dismissal from his practice was based on the rude and abusive behavior of the patient's husband toward the physician's staff and his answering service. He also states that it is his policy to refill narcotics only during office hours. The medical record mentions several times the husband's inappropriate behavior.

The physician does have the right to dismiss a patient when he feels he can no longer effectively maintain a therapeutic relationship, and he also has the right to refuse to give narcotic refills after office hours. It is not possible for the Board to know the content of the conversations that took

place during the two after-hours refill requests over the telephone, and thus it cannot judge whether the physician was rude during those conversations.

45. CR 10-434

Ms. Clukey moved to dismiss CR 10-434. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

In this case the patient complains the physician gave him another patient's diagnosis. The physician admits the mistake. The physician had two "no show" patients that day and when he was talking to the patient on the phone, he asked the secretary for the patient's file, and proceeded to give him the diagnosis. While he was transferring the call back to the secretary, he realized he was reading the wrong patient file. He immediately retrieved the correct patient file and told the patient he had made a mistake and apologized to him. The physician took this mix up seriously and spoke with the office manager and reviewed the office policy of always checking a patient's name and date of birth on a chart. Since this occurred, all policies and practices of patient identification have been reviewed with all staff.

46. CR 10-443

Dr. Gleaton moved to dismiss CR 10-443. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges the physician did not treat his back pain or his heart problems, and refused his request for a visiting nurse. The physician documents her treatment of the back problems, denies the patient presented with any heart issues other than those associated with anxiety, and did request a visiting nurse but the request was denied by MaineCare. The patient was warned about his abusive behavior toward staff and was subsequently dismissed from the practice.

47. CR 10-448

Dr. Jones moved to dismiss CR 10-448. Dr. Dumont seconded the motion, which passed unanimously.

This complaint was initiated by the Board after reviewing information received from a provider's former supervising physician. The complaint of incompetence and unprofessionalism brought by BOLIM involves prescribing (refilling) narcotics without an office visit and prescribing a narcotic medicine that the patient was allergic to.

Review of the records submitted by the provider's former supervising physician and review of the response to the complaint does not substantiate the charge of unprofessionalism. There was no office policy specifically pertaining to prescribing schedule III narcotics. The record did not support the charge of incompetence either. The patient had an adverse reaction (pruritus) to the narcotic that was refilled. Pruritus was not perceived as an allergy by the provider.

There is good documentation in the record concerning the adverse reaction, but the practice's Electronic Medical Record lists this under the heading of allergy. The provider's actions were appropriate and not in conflict with provided office policy.

48. CR 10-449

Dr. Dreher moved to dismiss CR 10-449. Dr. Gleaton seconded the motion, which passed unanimously.

This physician was reported to the Board after he resigned from his employment while under investigation regarding his interactions with staff. A review of the physician's thorough reply, with ample supporting documents, supports his contention this investigation occurred primarily because of an administrative/political situation.

49. CR 10-450

Dr. Oldham moved to dismiss CR 10-450. Dr. Jones seconded the motion, which passed unanimously.

The Board was notified by a hospital that a surgeon had resigned her medical staff privileges before an investigation of three surgical complications had been completed. Therefore, the Board issued this complaint. The surgeon replied that she left for another employment opportunity. She asserts she did not leave to avoid review of these complications. The cases were reviewed by an academic surgeon and a licensed Maine surgeon. They agreed that the complications did not suggest incompetent care.

50. CR 10-452 KRISHNAMURTHY V. JONNALAGADDA, M.D.

Dr. Nyberg moved to dismiss the complaint against Krishnamurthy V. Jonnalagadda, M.D. (CR 10-452) with a letter of guidance. Dr. Gleaton seconded the motion, which passed unanimously.

The physician, made an error on his application but the Board does not consider it a deliberately deceitful act. Such carelessness, nevertheless, is troublesome. Therefore, the physician will receive a letter of guidance regarding his responsibility for complete accuracy in all future applications for renewal.

51. CR 10-453

Dr. Nyberg moved to dismiss CR 10-453. Dr. Gleaton seconded the motion, which passed 5-2.

The physician committed fraud and deceit in application by falsely reporting CME credits. The Board dismissed the complaint because the physician agreed to withdraw her application for license renewal.

52. CR 10-474

Dr. Nyberg moved to dismiss CR 10-474. Dr. Gleaton seconded the motion, which passed unanimously.

The Board finds that the physician was probably confrontational on two occasions with public officials, and possibly at other times with people in the hospital where he formerly was employed, but his conduct does not rise to the level of discipline. He now practices in California and does not intend to return to Maine

53. CR 10-475

Dr. Dumont moved to order an Informal Conference in the matter of CR 10-475. Dr. Dreher seconded the motion, which passed unanimously.

54. CR 10-476 CESAR O. GARCIA, M.D.

Dr. Oldham to order an Adjudicatory Hearing in the matter of CR 10-476 Cesar O. Garcia, M.D. and authorize legal counsel to offer a consent agreement. Dr. Dreher seconded the motion which passed 6-1.

55. CR 10-370

Dr. Jones moved to dismiss CR 10-370. Dr. Dumont seconded the motion, which passed unanimously.

The complainant states that the provider's behavior was unprofessional during an initial worker compensation examination. The provider referenced another anonymous patient, and a private part of that patient's anatomy, in explaining the cause of the complainant's injury and why it was not a workers compensation issue.

Review of the complaint and the patient's records found this patient's medical care appropriate. In this complaint the patient referenced as an example was not identified in any manner, and there was no breach in patient confidentiality on the part of the provider.

Using examples and teaching aids can be appropriate and helpful, but the provider needs to have sensitivity and common sense in the use of examples. This provider's behavior was not unprofessional, but was unfortunate. He is urged in the future to remain sensitive to the appropriateness of his explanations and use of examples in the care of patients.

IV. ASSESSMENT & DIRECTION

56. AD 10-323 (CR 10-580)

Dr. Gleaton moved to issue a complaint in the matter of AD 10-323 (CR 10-580). Dr. Jones seconded the motion, which passed unanimously.

57. AD 10-405

Dr. Dumont moved to file AD 10-405. Dr. Jones seconded the motion, which passed unanimously.

58. AD 10-408

Dr. Dreher moved to file AD 10-408. Dr. Jones seconded the motion, which passed unanimously.

59. AD 10-409

Dr. Gleaton moved to file AD 10-409. Dr. Jones seconded the motion, which passed unanimously.

60. AD 10-461 (CR 10-581)

Dr. Jones moved to issue a complaint in the matter of AD 10-461 (CR 10-581). Dr. Gleaton seconded the motion, which passed unanimously.

61. AD 10-501 (CR 10-582)

Dr. Jones moved to issue a complaint in the matter of AD 10-501 (CR 10-582). Dr. Gleaton seconded the motion, which passed 5-0-2 with Dr. Gleaton and Dr. Dumont abstaining.

V. INFORMAL CONFERENCE(S) (None)

VI. MINUTES OF NOVEMBER 9, 2010

Dr. Jones moved to approve the minutes of November 9, 2010. Dr. Gleaton seconded the motion, which passed unanimously.

VII. NEW BUSINESS (None)

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. BOARD ORDERS (None)

B. CONSENT AGREEMENT MONITORING and APPROVAL

1. CLIFFORD SINGER, M.D. (FYI – no action taken.)
2. CR 07-367 DAVID B. GAMMON, M.D. [SEE APPENDIX A ATTACHED]

Dr. Dreher moved to grant an unrestricted license to David B. Gammon, M.D. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

3. CR 08-120 and CR 08-133 MICHAEL S. BERRY, M.D.

Dr. Dreher moved to approve the requested modification to Dr. Berry's consent agreement. Ms. Clukey seconded the motion, which passed unanimously.

4. DANIEL BOBKER, M.D. (No action taken.)

5. OSAMA EL SAYED EL-SILIMY, M.D. (Request termination of CA)

Dr. Dreher moved to grant an unrestricted license to Osama El Sayed El-Silimy, M.D. The motion passed 6-0-0-1 with Dr. Jones recused.

IX. ADJUDICATORY HEARING (NONE)

X. REMARKS OF CHAIRMAN

A. MAINE CORRECTIONAL MEDICAL FACILITY SITE VISIT REPORTS

Board and Staff members who toured the Maine State Prison reported it was a successful visit. Staff was instructed to send a letter of thanks to the Department of Corrections.

B. FIRST CALL FOR RESOLUTIONS FSMB HOUSE OF DELEGATES (No action taken)

C. FIRST CALL FOR AWARD NOMINATIONS FSMB (No action taken)

D. FIRST CALL FOR ASSOCIATE MEMBER NOMINATIONS FSMB BOARD OF DIRECTORS (No action taken)

E. VOTING DELEGATE TO 2011 FSMB ANNUAL MEETING

Dr. Jones moved to appoint Dr. Nyberg as the voting delegate representing the Board at the 2011 FSMB Annual meeting. Dr. Dreher seconded the motion, which passed unanimously.

XI. EXECUTIVE DIRECTOR'S REPORT

The Board accepted the report of the Executive Director.

A. COMPLAINT STATUS REPORT (FYI)

B. EMPLOYMENT HISTORY VERIFICATION REQUIRED POLICY FOR REVIEW

After review and discussion, Dr. Dreher moved to reaffirm the Employment History Verification Required Policy. Dr. Dumont seconded the motion, which passed unanimously.

C. BOARD SEAT APPOINTMENT STATUS

The Executive Director reported he has not been notified of a new appointment or a reappointment for either of the two public member seats on the Board whose terms expired June 30, 2010. Members continue to serve until they are either reappointed or replaced.

XII. MEDICAL DIRECTOR'S REPORT (None)XIII. REMARKS OF ASSISTANT ATTORNEY GENERAL (None)XIV. SECRETARY'S REPORTA. LIST A1. M.D. LIST A LICENSES FOR RATIFICATION

Dr. Dreher moved to approve the physicians on List A for licensure. Dr. Dumont seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Alvarez, Sarah G.	Family Medicine	Portland
Ayala-Rodriguez, Cesar E.	Internal Medicine	Not Listed
Cavazos, Cristina M.	Diagnostic Radiology	Teleradiology
Doughty, Mark K.	Family Medicine	Blue Hill
Kalirau, Sonia K.	Psychiatry & Neurology	Not Listed
Kindrat, Taras	OB/GYN / IM	Aroostook County
Kirtani, Vatsala G.	IM/Geriatric Medicine	Presque Isle/Aroostook County
Laffely, Nicholas H.	Internal Medicine	Lewiston & Brunswick
Nepal, Manish	Internal Medicine	Bangor
Pineda, Tiffany	Neurology	Not Listed
Rashidzada, Wahid	Neurology	Telemedicine
Remick, Kyle N.	General Surgery	Millinocket
Schneck, Michael	Psychiatry	Not Listed
Shiblee, Towhid H.	Internal Medicine	Caribou
SIKKA, Sanjay K.	Gastroenterology/IM	Lewiston
Slap, Joseph W.	Psychiatry	Not Listed
Wang, Cecilia F.	General Surgery/Surgical Critical Care	Brunswick
Williams, Michael D.	General Surgery	Bangor
Zelada, Juliette M.	General Surgery	Bangor

2. P.A. LIST A LICENSES FOR RATIFICATION

The following Physician Assistant license applications have been approved by the Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>Name</u>	<u>License</u>	<u>PSP</u>	<u>Location</u>
Bonnie Troubh, PA-C	Inactive	None	None
Melissa Anderson, PA-C	Active	Frederick Roediger, M.D.	Portland
Amy Hanscom, PA-C	Active	John Southall, M.D.	Portland
Corriane O'Donnell, PA-C	Inactive	None	None
Carla Moschella, PA-C	Inactive	None	None
Megan McCrossin, PA-C	Active	Cynthia Atkinson, M.D.	Portland

Dr. Dreher moved to approve the physician assistants on List A for licensure. Dr. Dumont seconded the motion, which passed unanimously.

B. LIST B APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. MARTINA P. CALLUM, M.D.

The Licensure Committee moved to approve Martina P. Callum, M.D. for licensure. The motion passed unanimously.

2. DAVID GRODSKY, M.D.

The Licensure Committee moved to preliminarily deny the license application of David Grodsky, M.D., with leave to withdraw his application. The motion passed unanimously.

3. KAREN LAWES, M.D.

The Licensure Committee moved to approve Karen Lawes, M.D. for licensure. The motion passed unanimously.

4. MANIKA THAKUR, M.D.

The Licensure Committee moved to grant a waiver and approve Manika Thakur, M.D. for licensure. The motion passed unanimously.

5. MARK W. OVERTON, M.D.

The Licensure Committee moved to approve Mark W. Overton, M.D. for licensure. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT (None)

D. LIST D - WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (None)
2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Gleaton moved to approve the physicians and physician assistants on List D (2) to withdraw their licenses from registration. Dr. Jones seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Millay, David	011123
Nathan, Swami	009587
Porensky, Richard	010033
Vana, Karla	015452

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW (FYI)

The following physician licenses lapsed by operation of law effective October 20, 2010.

<u>NAME</u>	<u>LICENSE NO.</u>
Bauman, Anne	013442
Bruma, Larisa	018263
Churchill, Bruce	011649
Dumdey, Paul	006899
Klein, Michael	018113
Looser, Kevin	010659
McCarthy, Laurence	007619
Mode, Donald	017992
Noltimier, Louis	014409
Pickering, Jack	018407
Pope, Alan	016134
Sammons, Elena	018010
Sinelnikov, Alex	017912
Watson, Christopher	018269
Winter, Peter	005829
Zarankow, Beata	015585

F. LIST F LICENSEES REQUESTING TO CONVERT TO ACTIVE STATUS (None)

G. LIST G – RENEWAL APPLICATIONS FOR REVIEW

1. JOANN M. MILLER, M.D.

Dr. Nyberg moved to approve the application to withdraw from licensure of Joann M. Miller, M.D. Dr. Gleaton seconded the motion, which passed unanimously.

H. LIST H PHYSICIAN ASSISTANT SCHEDULE II AUTHORITY REQUESTS FOR RATIFICATION

1. APPLICATIONS TO RENEW SCHEDULE II AUTHORITY (None)
2. APPLICATIONS FOR NEW SCHEDULE II AUTHORITY

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
AnneMarie Fiore, PA-C.	Michael Gibbs, M.D.	Portland
Anne Rolfson, PA-C	Philip Anson, M.D.	Portland
Mark S. Wright, PA-C.	Anthony Mancini, M.D.	Augusta
Claire Costanza, PA-C	David Carmack, M.D.	Bangor
Vince LaBreque, PA-C	Scott Kemmerer, M.D.	Augusta

XV. STANDING COMMITTEE REPORTS

A. ADMINISTRATION, POLICY & RULES COMMITTEE

1. EXECUTIVE DIRECTOR'S LONGEVITY

Dr. Gleaton moved to approve longevity pay for the Executive Director. Dr. Jones seconded the motion, which passed unanimously.

2. BOARD GOALS

Dr. Dreher moved to approve the Board Goals recommended by the Administrative Committee. Dr. Jones seconded the motion, which passed unanimously.

B. LEGISLATIVE & REGULATORY COMMITTEE (No report)

C. LICENSURE COMMITTEE (No report)

D. PUBLIC INFORMATION COMMITTEE

1. BOARD WEBSITE & DISCIPLINARY DETAIL

Dr. Jones moved to deny the request of Dr. Emily Sheffer to have the detail of her discipline (when she was a resident at MMC ten years ago) removed from the Board's website. Ms. Clukey seconded the motion, which passed unanimously.

E. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

Dr. Jones reported that the P.A. Advisory Committee met December 7, 2010. The P.A. Advisory Committee is seeking new members. The proposed changes to the Chapter 2 rules

were thoroughly discussed but the committee isn't quite through and hopes to be done by March so the rule can go out for rulemaking.

XVI. BOARD CORRESPONDENCE

XVII. FYI

XIII. FSMB MATERIAL


A. FSMB ANNUAL MEETING 2011 – SEATTLE (FYI)

XIX. OTHER BUSINESS (None)

XX. ADJOURNMENT 4:04 P.M.

Dr. Dreher moved to adjourn the meeting. Dr. Jones seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood, Administrative Assistant
Board Coordinator

**STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE**

IN RE:)	TERMINATION OF
David B. Gammon, M.D.)	CONSENT AGREEMENT
)	FOR CONDITIONAL
)	LICENSURE

This document terminates a Consent Agreement For Conditional Licensure that became effective February 12, 2008, as amended by the First Amendment to the consent agreement dated March 26, 2008, regarding conditions and restrictions imposed upon the license to practice medicine in the State of Maine held by David B. Gammon, M.D. The parties to that Consent Agreement were: David B. Gammon, M.D. ("Dr. Gammon"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General").

BACKGROUND

1. On February 12, 2008, the parties entered into a Consent Agreement For Conditional Licensure that imposed conditions and restrictions upon the Maine medical license held by Dr. Gammon following his application for licensure.
2. On March 26, 2008, the parties entered into a First Amendment to the consent agreement.
3. On October 12, 2010, the Board received a request from Dr. Gammon to rescind/terminate the Consent Agreement For Conditional Licensure based upon his compliance with its terms and the reinstatement of his federal DEA registration.

4. On December 14, 2010, the Board reviewed information received from Dr. Gammon. Following its review, the Board voted to terminate the Consent Agreement for Conditional Licensure and issue Dr. Gammon an unrestricted Maine medical license.

COVENANT

5. Effective December 14, 2010, Dr. Gammon, the Board, and the Office of Attorney General hereby agree to terminate the Consent Agreement For Conditional Licensure that became effective February 12, 2008, as amended by the First Amendment to the consent agreement dated March 26, 2008.

I, DAVID B. GAMMON, M.D., HAVE READ AND UNDERSTAND THE FOREGOING TERMINATION TO THE CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated:

12-14-2010


DAVID B. GAMMON, M.D.

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

DATED:

12-14-2010


SHRIDAN R. OLDHAM, M.D.,
Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

12/14/10



DENNIS E. SMITH
Assistant Attorney General

Effective Date: December 14, 2010